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AVAILABLE

# MONTANA LEGISLATIVE HISTORY

Chapter 489 19 93

Bill H 422 S _____ Original bill & history ✓ C

| H. Committee on Business & Economic Development | | | S. Committee on Business & Industry | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Feb 05 | ✓ C | Hearing Date(s) | Mar 24 | ✓ C |
| | Feb 15 | ✓ C | | Mar 26 | ✓ C |
| | Feb 18 | ✓ C | | _____ | ____ C |
| | _____ | ____ C | | _____ | ____ C |
| Date Out | Feb 19 | ✓ C | | Mar 26 | ✓ C |

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

| | | | |
|---|---|---|---|
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/06 | 2ND READING AMENDMENTS CONCURRED | 97 | 0 |
| 4/12 | 3RD READING AMENDMENTS CONCURRED | 91 | 9 |
| 4/19 | SIGNED BY SPEAKER | | |
| 4/20 | SIGNED BY PRESIDENT | | |
| 4/21 | TRANSMITTED TO GOVERNOR | | |
| 4/24 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 509 | | |
| | EFFECTIVE DATE: 10/01/93 | | |

HB 420 INTRODUCED BY HARPER, ET AL.

PRESERVE WATER RESERVATIONS; PROHIBIT CERTAIN CONDITIONS

| | | | |
|---|---|---|---|
| 2/01 | INTRODUCED | | |
| 2/01 | REFERRED TO NATURAL RESOURCES | | |
| 2/01 | FIRST READING | | |
| 2/08 | HEARING | | |
| 2/12 | COMMITTEE REPORT—BILL NOT PASSED | | |
| 2/15 | MOTION FAILED TO REJECT ADVERSE COMMITTEE REPORT AND PLACE ON 2ND READING | 46 | 51 |
| 2/15 | ADVERSE COMMITTEE REPORT ADOPTED | 51 | 46 |

HB 421 INTRODUCED BY STRIZICH, ET AL.

ALLOW COUNTY PUBLIC SAFETY PROPERTY TAX LEVY

| | | | |
|---|---|---|---|
| 2/01 | INTRODUCED | | |
| 2/01 | REFERRED TO TAXATION | | |
| 2/01 | FIRST READING | | |
| 2/11 | HEARING | | |
| 2/23 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 3/02 | 2ND READING PASSED | 58 | 41 |
| 3/05 | 3RD READING PASSED | 52 | 48 |
| | TRANSMITTED TO SENATE | | |
| 3/08 | FIRST READING | | |
| 3/08 | REFERRED TO LOCAL GOVERNMENT | | |
| 3/23 | HEARING | | |
| 3/24 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/27 | 2ND READING CONCURRED | 30 | 17 |
| 3/29 | 3RD READING CONCURRED | 30 | 18 |
| | RETURNED TO HOUSE | | |
| 4/06 | SIGNED BY SPEAKER | | |
| 4/07 | SIGNED BY PRESIDENT | | |
| 4/08 | TRANSMITTED TO GOVERNOR | | |
| 4/12 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 318 | | |
| | EFFECTIVE DATE: 07/01/93 | | |

HB 422 INTRODUCED BY LARSON, ET AL.

ESTABLISH STANDARDS FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS

| | | | |
|---|---|---|---|
| 2/02 | INTRODUCED | | |
| 2/02 | REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT | | |
| 2/02 | FIRST READING | | |
| 2/05 | HEARING | | |
| 2/15 | TABLED IN COMMITTEE | | |
| 2/19 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/20 | 2ND READING PASSED | 94 | 2 |
| 2/23 | 3RD READING PASSED | 91 | 9 |

| | | | |
|---|---|---|---|
| | TRANSMITTED TO SENATE | | |
| 3/01 | FIRST READING | | |
| 3/01 | REFERRED TO BUSINESS & INDUSTRY | | |
| 3/24 | HEARING | | |
| 3/29 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 3/31 | 2ND READING CONCURRED AS AMENDED | 37 | 9 |
| 4/01 | 3RD READING CONCURRED | 40 | 8 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/06 | 2ND READING AMENDMENTS CONCURRED | 83 | 16 |
| 4/12 | 3RD READING AMENDMENTS CONCURRED | 90 | 10 |
| 4/19 | SIGNED BY SPEAKER | | |
| 4/20 | SIGNED BY PRESIDENT | | |
| 4/21 | TRANSMITTED TO GOVERNOR | | |
| 4/22 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 487 | | |
| | EFFECTIVE DATE: 10/01/93 | | |

HB 423 INTRODUCED BY GILBERT, ET AL.

CLARIFY PETROLEUM TANK RELEASE COMPENSATION BOARD HEARING REQUIREMENTS

| | | | |
|---|---|---|---|
| 2/02 | INTRODUCED | | |
| 2/02 | REFERRED TO NATURAL RESOURCES | | |
| 2/02 | FIRST READING | | |
| 2/10 | HEARING | | |
| 2/13 | COMMITTEE REPORT—BILL PASSED | | |
| 2/15 | 2ND READING PASSED | 97 | 0 |
| 2/17 | 3RD READING PASSED | 98 | 2 |
| | TRANSMITTED TO SENATE | | |
| 2/20 | FIRST READING | | |
| 2/20 | REFERRED TO NATURAL RESOURCES | | |
| 3/24 | HEARING | | |
| 3/27 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/31 | 2ND READING CONCURRED | 49 | 0 |
| 4/01 | 3RD READING CONCURRED | 45 | 3 |
| | RETURNED TO HOUSE | | |
| 4/07 | SIGNED BY SPEAKER | | |
| 4/08 | SIGNED BY PRESIDENT | | |
| 4/13 | TRANSMITTED TO GOVERNOR | | |
| 4/16 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 355 | | |
| | EFFECTIVE DATE: 10/01/93 | | |

HB 424 INTRODUCED BY SPRING, ET AL.

ALLOW USE OF SPECIAL EDUCATION TUITION FOR PROGRAMS, NOT FOR LEVY REDUCTION

| | | | |
|---|---|---|---|
| 2/02 | INTRODUCED | | |
| 2/02 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 2/02 | FIRST READING | | |
| 2/08 | HEARING | | |
| 2/09 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/12 | 2ND READING PASSED | 95 | 1 |
| 2/15 | 3RD READING PASSED | 95 | 1 |
| | TRANSMITTED TO SENATE | | |
| 2/20 | FIRST READING | | |
| 2/20 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 3/10 | HEARING | | |
| 3/19 | TABLED IN COMMITTEE | | |

HOUSE BILL NO. 422

INTRODUCED BY LARSON, REAM, WANZENRIED, HARRINGTON, KADAS, MENAHAN, DOWELL, MCCULLOCH, SQUIRES, TOOLE, RANEY, HARPER

IN THE HOUSE

| | |
|---|---|
| FEBRUARY 2, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. |
| | FIRST READING. |
| FEBRUARY 19, 1993 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| FEBRUARY 20, 1993 | PRINTING REPORT. |
| | SECOND READING, DO PASS. |
| FEBRUARY 22, 1993 | ENGROSSING REPORT. |
| FEBRUARY 23, 1993 | THIRD READING, PASSED. AYES, 91; NOES, 9. |
| FEBRUARY 24, 1993 | TRANSMITTED TO SENATE. |

IN THE SENATE

| | |
|---|---|
| MARCH 1, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. |
| | FIRST READING. |
| MARCH 29, 1993 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 31, 1993 | SECOND READING, CONCURRED IN AS AMENDED. |
| APRIL 1, 1993 | THIRD READING, CONCURRED IN. AYES, 40; NOES, 8. |
| | RETURNED TO HOUSE WITH AMENDMENTS. |

IN THE HOUSE

| | |
|---|---|
| APRIL 6, 1993 | SECOND READING, AMENDMENTS CONCURRED IN. |

APRIL 12, 1993

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 422

INTRODUCED BY Lavon
Rear—unanimous. Hamilton Kadas Menahan Dowell
McCulloch Squires Lee Raney Hagener

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS; AUTHORIZING ARBITRATION OF DISPUTES CONCERNING RULE ADOPTION; PROVIDING FOR ATTORNEY GENERAL REVIEW OF MOBILE HOME PARK RULES IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE CREATION OF MOBILE HOME PARK RESIDENT ASSOCIATIONS; SETTING FORTH THE MAINTENANCE RESPONSIBILITIES OF MOBILE HOME PARK OPERATORS; AND AMENDING SECTION 70-24-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-24-103, MCA, is amended to read:

"70-24-103. General definitions. Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Court" means the appropriate district court or the appropriate justice's court.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit", in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part or of a mobile home park and ~~also means~~ includes a manager of the premises who fails to disclose ~~his~~ the managerial position and the operator of a mobile home park.

(6) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(7) "Mobile home park" means a trailer court as defined in 50-52-102.

~~(6)~~(8) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

~~(7)~~(9) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

~~(8)~~(10) "Person" includes an individual or organization.

~~(9)~~(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

~~(10)~~(12) "Rent" means all payments to be made to the landlord under the rental agreement.

~~(11)~~(13) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

~~(12)~~(14) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of these facilities are used in common by occupants in the structure.

~~(13)~~(15) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family





residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

~~(14)~~(16) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

NEW SECTION. **Section 2. Mobile home parks -- park rules -- arbitration.** (1) A mobile home park operator may adopt a rule concerning the rental occupancy of a mobile home space and the use of common areas and facilities in accordance with 70-24-311 and the following:

(a) a rule may not be unreasonable, ~~unfair~~, ~~or unconscionable~~;

(b) a rule that does not apply uniformly to all mobile home residents of a similar class creates a rebuttable presumption, as defined in 70-24-431, that the rule is unfair;

(c) the rule has been approved as provided in subsection (2) or (3);

(d) except in a bona fide emergency, a change in a rule is not effective until at least 60 days after the residents receive notice of the change; and

(e) a resident against whom a rule is enforced may seek judicial review of the rule for compliance with this

section.

(2) (a) If a resident association exists for a mobile home park, then a change in a rule may not be implemented without the approval of the association. If approval is withheld, the mobile home park operator may initiate an arbitration procedure with the resident association pursuant to this subsection (2). If the arbitrator finds that the rule change is unreasonable, unfair, or unconscionable, it may not be implemented. If a resident or resident association and the mobile home park operator cannot agree on the selection of an arbitrator, the district court, upon application of a party, shall appoint an arbitrator. The decision of the arbitrator must be a signed written document, with copies provided to each party. The decision must apportion expenses and other fees incurred between the parties as equitable, except that the fees for the arbitrator must be divided equally between the parties. Each party has the right in the arbitration proceeding to be represented by an attorney or, in the case of a resident, by the resident association. Upon application of a party, a court may vacate, modify, or correct a decision if:

(i) the decision was procured by undue means;

(ii) there was evident partiality of an arbitrator or misconduct prejudicial to the rights of a party;

(iii) the arbitrator exceeded the arbitrator's powers;





or

(iv) the decision was demonstrably irrational.

(b) If the court vacates an arbitrator's decision, it shall appoint a new arbitrator.

(3) If a resident association does not exist, a rule change must be submitted to the attorney general for approval. The attorney general shall review the rule for reasonableness, fairness, and conscionability and to ensure that the rule conforms to applicable state and local law. A party may appeal the attorney general's decision to approve or disapprove a rule to the district court.

(4) Each common area facility must be open or available to residents at all reasonable hours, and the hours of a common recreational facility must be posted at the facility.

NEW SECTION. **Section 3. Resident associations -- harassment prohibited -- meetings.** (1) The membership of a resident association may elect officers of the association at a meeting at which a majority of the members are present. Except in emergency situations, 7 days' notice of an association meeting must be given to all residents. All residents may attend meetings, but the mobile home park operator and the operator's employees may not be members and may not attend meetings unless specifically invited to a particular part of a meeting. An officer or member of a resident association is not personally financially

responsible for the acts or omissions of the association or other officers or members of the association.

(2) It is unlawful for a mobile home park operator to increase a resident's rent or decrease services, change park rules, terminate or threaten to terminate a rental agreement, file a civil action, or take any other action in retaliation after:

(a) the resident has filed or expressed an intention to file a lawsuit or administrative action against the mobile home park operator; or

(b) the resident has performed or expressed an intent to perform any other act for the purpose of asserting, protecting, or invoking the protection of any right secured to residents under federal, state, or local law.

(3) A mobile home park operator may not harass or threaten any resident association or engage in unfair or deceptive conduct to inhibit or interfere with the creation or operation of an association.

(4) (a) The mobile home park operator shall permit meetings by a resident association or residents relating to mobile home living or social or educational purposes, including forums for or speeches by public officials or candidates for public office.

(b) The mobile home park operator shall meet and consult with residents upon written request, within 30 days





of the request, either individually or collectively, or with representatives of a group of residents who have signed a request to be represented on the following matters:

(i) amendments to park rules and regulations;

(ii) standards for maintenance of physical improvements in the park; or

(iii) the addition, alteration, or deletion of services, equipment, or physical improvements.

NEW SECTION. **Section 4. Warranty of habitability -- mobile home park operator's maintenance obligations -- resident self-help.** (1) In a rental agreement the mobile home park operator is considered to covenant and warrant that the space and its associated facilities are fit for human habitation.

(2) In addition to the obligations imposed by 70-24-303, the mobile home park operator shall:

(a) maintain roads within the mobile home park in a safe condition including arranging for snow removal and adequate drainage. The mobile home park operator is responsible for damage to any vehicle that is the direct result of any unrepaired or poorly maintained access road within the park.

(b) maintain the premises and regrade them when necessary to prevent the accumulation of stagnant water and the detrimental effects of moving water;

(c) keep the common areas of the mobile home park free from any species of weed or plant growth that is noxious or detrimental to the health of the residents; and

(d) maintain and protect all utilities provided to the mobile home and keep water and sewer lines in good working condition. Maintenance responsibility extends to that point where the normal mobile home utility hookups connect to those provided by the mobile home park operator or utility company.

(3) The mobile home park operator shall authorize a manager, assistant manager, or other employee to make repairs that are the responsibility of the mobile home park operator or enter into a contract with a third party to provide emergency repairs that are the responsibility of the mobile home park operator on occasions when the manager, assistant manager, or other designated employee is not physically present in the park. The mobile home park operator shall notify each resident of the telephone number where the third party may be reached.

(4) If a mobile home park operator fails to comply with this section, the resident may recover damages for the breach pursuant to 70-24-406 or make the repairs pursuant to 70-24-406.

-End-

**Ed McHugh, McHugh Mobile Home Park, Helena**, said that none of their tenants are before the committee today asking for the passage of HB 245, HB 321 and HB 422. He said if the banks would loan money to build mobile home courts, these problems would not be before this committee.

Questions From Committee Members and Responses:

**REP. LARSON** asked **Jim Parker** if owners of the mobile homes should have some say in the length of a lease. **Mr. Parker** felt it could be negotiated.

**REP. LARSON** asked **Andy Skinner** and commended him on his testimony in support of the landlords, if he would be willing to work on HB 321 to develop some amendatory language that would satisfy the landlords and mobile home owners? **Mr. Skinner** said he would.

Closing by Sponsor:

**REP. DOWELL** closed.

## HEARING ON HB 422

Opening Statement by Sponsor:

**REP. DON LARSON, House District 65, Seeley**, said HB 422 is the main bill that will help the landlords and mobile home tenants write the rules. It identifies the procedures in adopting the rules governing mobile home parks, and provides for a review process for the rules. He said it also sets the procedures for mobile home owners to form resident associations.

Proponents' Testimony:

**Stacey Jaffe, representing the Target Range Trailer Court, Missoula**, said she owns her mobile home, and doesn't have any rights for her private property, but the landlords want rights for their private property. She asked for support of HB 422.

**Ron Graft, Travois Village, Missoula**, informed the committee that new buyers of the court informed the tenants that they cannot store anything under their trailers.

**Patrick Kelter, Travois Village, Missoula**, told the committee some of the rules from the new owner. They cannot have guests longer than two hours without the managers permission, and if they want to have overnight guests, they have to pay $5 per person. He urged a do pass for HB 422.

**Ken Crisp, Target Range Court, Missoula**, asked for a do pass on HB 422.

**Klaus Sitte, Legal Services Attorney, Missoula**, stated his support for HB 422. He gave a synopsis if a mobile home park he

represented before court and won, but the tenants have not received any compensation for it at this time.

**Jim Parker, MPA**, said there is one significant change on the amendment on page 6, lines 6, 7, & 10. He said the Attorney General's office and the Department of Commerce did not have the opportunity to review the rules, but did suggest the MPA go to the county commissioners and the county that the mobile home court is located in to settle any differences.

**Allen Pickett, Stevensville**, said he supports HB 422. He said if these three bills are not passed, they will be a people without a voice.

**Ron Wagner, Target Range, Missoula**, stated his support for HB 245, HB 321 and HB 422.

**Mikellete Meade, Trange Ranger Trailer Court**, said she supports HB 422.

**Joel Wasinger, Travois Village, Missoula**, thanked the committee for the opportunity to participate in the democracy of Montana.

**Janice Warden, Forest Park, Gallatin County**, said she supports HB 422.

**Kathy Econkana, Missoula Village West**, said she supports HB 422.

Opponents' Testimony:

**Lloyd Upton, Billings**, stated his opposition to HB 422. He distributed written testimony. **EXHIBIT 12**

**Greg Van Horssen, IPMA and MLA**, said the organizations feel that HB 422 removes from the property owner the ability to change rules in a mobile home park even if the change were necessary to preserve some aspect of the business. He read section 2 regarding the landlords adopting and changing the rules after following procedure. He said it is up to the committee to decide if the county commissioners need to be burdened with an additional commitment of time and assets.

**Lance Clark, Montana Association of Realtors**, spoke to section 2, and stated his opposition to HB 422.

**Ed Eaton, Mobile Court Owner**, informed the committee of the negative affect HB 245, HB 321 and HB 422 will have on the operations of mobile home courts. He said that many of the smaller courts will go out of business because of the cost in in environmental testing on water, etc.

**Andy Skinner, Lifestyles Mobile Home Court**, said he has a problem with the bill in regard to the control that would be taken out of his hands and placed into the tenants hands who do not understand

the technical problems that exist in the trailer courts. He recommended a do not pass.

**Don Alderson, Mobile home court owner, Bozeman**, stated his opposition to HB 422.

**Dan Woods, State president of the Montana Land Owners Association**, referred to page 7, line 25, and page 8, line 1, it states that, "a mobile home operator shall meet and consult with the residents upon written request....". Where does the responsibilities of the landlord start and stop? He urged the committee to kill the bill.

**Robert Dunlop**, said passage of this bill will cause problems for the Legislatures that follow this one, and urged the legislators to find money in their budget for public housing.

**Stan Clothier, MLA**, stated his opposition to HB 422. He referred to the laws in the Montana Landlord/Tenant Association. **EXHIBIT 8**

**Montana Watts, Montana Mobile Court and Campground Association**, said it hadn't been brought out in this hearing that the landlord has to pay the utility bills when they cannot get a tenant out in 30 days, the landlord has to wait sometimes two to four months.

Questions From Committee Members and Responses:

None

Closing by Sponsor:

**REP. LARSON** said these three bills heard this morning are not set in stone, they are only starting points for discussions between the landlords and their tenants. He said the rulemaking should include both sides, not just for the landlord.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 2-5-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. ALVIN ELLIS | ✓ | | |
| REP. DICK KNOX | ✓ | | |
| REP. NORM MILLS | ✓ | | |
| REP. JOE BARNETT | ✓ | | |
| REP. RAY BRANDEWIE | ✓ | | |
| REP. JACK HERRON | ✓ | | |
| REP. TIM DOWELL | ✓ | | |
| REP. CARLEY TUSS | ✓ | | |
| REP. STELLA JEAN HANSEN | ✓ | | |
| REP. BOB PAVLOVICH | ✓ | | |
| REP. VICKI COCCHIARELLA | ✓ | | |
| REP. FRITZ DAILY | ✓ | | |
| REP. BOB BACHINI | ✓ | | |
| REP. DON LARSON | ✓ | | |
| REP. BRUCE SIMON | ✓ | | |
| REP. DOUG WAGNER | ✓ | | |
| REP. SONNY HANSON, VICE CHAIRMAN | ✓ | | |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | | |
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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business + Econ COMMITTEE BILL NO. HB 422

DATE 2-5-93 SPONSOR(S) Rep Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Kathryn Hodge - 92 Falls | Landlords Assn | | X |
| Greg Van Horsen | IPMA / MEA | | X |
| Donna Shaffer | Ward 2 Council person Missoula | X | |
| Vi Meade | Pres. D. P. Mo | | X |
| Cleo Louthes | IPMS | | X |
| Tammy Reynolds | Missoula 3005 Hwy 10 West | X | |
| Donna Kay Collins | 1225 North ave West 1225 ~~North Grant~~ | X | |
| Bernice Mathes | 1700 Cooley II 12 | X | |
| Larry E. Mathews | Trailer Terrace Missoula MT | | X |
| Laurie Gulbranson | Mobile Home Tenant | | X |
| Wilbur Ethridge | Missoula, MT | X | |
| Mary Bouchard | Missoula MT | X | |
| Joel Wasinger | Mobile Home Owner Travois Village Missoula | X | |
| Deb Wasinger Missoula | mobile home park residents | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB 422

DATE Feb. 5, 1993 SPONSOR(S) D Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Dennis Jia P.O. Box 1867 MSA 39564 | LANDLORDS & TENANTS | | ✓ |
| Wm W Isbell | | | ✓ |
| Sandy Isbell | | | ✓ |
| Wm A Isbell | | | ✓ |
| Jerry Johnson | | X | |
| Les McBirnie | MPA | X | |
| Bea Steen | Golden Estates | X | |
| Ronda Carpenter | Income Prop Owners & Mgrs | | ✓ |
| Stan Clothier | Mobile LL Assoc / Spanish | | X |
| Delsey D. Mayo | Golden Estates | ✓ | |
| Mike Peterson | | | ✓ |
| Gene Long | WHEEL ESTATES | | ✓ |
| Lee Reynolds | Mobile City Home Park | | X |
| Janice Reynolds | Mobile Cities Hom. Ass | | X |
| Ernest Stovall | " | | X |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec. COMMITTEE BILL NO. HB 422

DATE Feb. 5, 1993 SPONSOR(S) D. Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Dan Egeland P.O. Box 303 Frenchtown, MT 59834 | | | ✓ |
| Ernest W Johnson 4750 Sunnyside Ct Msla 59802 | | | ✓ |
| Hugh W Smith 7365 Beryl - Msla 59801 | My Self | | X |
| KEN CHILCOTE 4020 NORTH AVE, Msla | Western Mont. Landlords Ass | | ✓ |
| Geoffrey Bayliss | | | — |
| 2324 42nd ST Missoula | | | |
| Kelly Strickland Bozeman Alberton | | | ✓ |
| Raelene Eggebrecht 3805 Sandpiper Billings | | | ✓ |
| Carla Brien Billings, Mt | Gladiola Mobile Court | | ✓ |
| Dolores Bayliss Missoula, MT | | | ✓ |
| 305 Sandpiper Billings MT. Thomas Eggebrecht | | | ✓ |
| Glen C Walter 3455 Old Hardin Rd Billings MT. 59101 | | | ✓ |
| Elaine Chilcote 4020 North Ave. Msla. | | | ✓ |
| Montana Water 3455 old Hardin Rd Blgs Mt | | | ✓ |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

3 of 9

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec COMMITTEE BILL NO. HB 422

DATE Feb. 5, 1993 SPONSOR(S) Rep Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| James Hollandsworth | LoLo/Valley West Tr Ct | | X |
| Barbara J. Hollandsworth | " / " | | X |
| Ron Cundy | Lambert Hills - Hamilton | | X |
| Don Allen | Mountain Mobile Est | | X |
| Dixie Johnson | Mountain Mobile Estates | | X |
| Bethene Alderson | " " " | | X |
| Dave Rausch | Forest Park, Conrad Hgts, Bridger Vu, Windsor | | X |
| Harold McDunn | E&M Court | | X |
| Richey D. Linafelter | Linafelter Consc Mgt Inc | | X |
| Cindy Peterson | Buckeye Ent | | X |
| Dan Wood | MT. Landlords Assn | | X |
| Tom Lessor | Income Prop Mgmt | | X |
| Kathleen Sorensen | MT Landlords Assn | | X |
| [illegible] | MT Landlords Assn | | X |
| [illegible] | MT. Landlords Assn | | X |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Ken Crisp MSLA Target Range Coord. X

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB 422

DATE Feb. 5, 1993 SPONSOR(S) Rep Larson

**PLEASE PRINT** **PLEASE PRINT** **PLEASE PRINT**

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Phyllis Bolton Franchise | mobile home residents | X | |
| Clint Creatheren | Good Cause Fulton | X | |
| Gail Dockins | Good Cause | X | |
| Lonnie DelValle | Good Cause | X | |
| Allen + Doreen Pickett | Good Cause | X | |
| Al Price | Good Cause | X | |
| Percie Jones | Good Cause | X | |
| Ron CRAFFT | good CAUSE | X | |
| PATKELLER MSLA | GOOD CAUSE | X | |
| Cathie Hoglund MSLA-MT | Rules + Rigs / Good Cause | X | |
| Allen White MSLA MT | Good Cause | X | |
| Terry Dahlquist | Good Cause | X | |
| Alma MT Magazine | Good Cause | X | |
| Josh Colin | Good Cause | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

BOB JAFFE GOOD CAUSE X

Linda Nelson Good Cause X

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. 422

DATE Feb. 5 1993 SPONSOR(S) Rep Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Don Wood | MT. Landlords Assn | | X |
| Vern B Kessner | Income Prop Mgmt | | X |
| Judy Peterson | Buchanan Ent | | * |
| Kathleen Workman PO Box 723 Gt Falls Mt | MT Land Lords ASSN | | X |
| Liz Wade PO BOX 723, Gt Falls Mt | MT Landlords ASSN | | X |
| Kathy Hodge - Gt Falls | Mt Landlords Assn | | X |
| Dennis Nougaret PO Box 3163 Gt Falls MT. | MT. Landlords Assn | | X |
| Dianne Shaffer | Ward 2 - Councilperson Missoula | X | |
| Liz Meade | Rep. D. P. Mt | | X |
| Greg Van Horssen | IPMD MLA | | X |
| JACK POSTLETHWAITE | GOOD CAUSE | + | |
| FRANK BICKER | " | + | |
| Vern L. Fischer | IPM | | X |
| Lonnie Gulbranson | Mobile Home Tenant | | X |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

James G Larson Kalispell T.C. X

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & EC. COMMITTEE BILL NO. HB 422

DATE Feb. 5, 1993 SPONSOR(S) Rep Larson

**PLEASE PRINT** **PLEASE PRINT** **PLEASE PRINT**

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| [illegible] | [illegible] | | ✓ |
| ~~ERNEST FRASER~~ | ~~MPA GOOD CAUSE~~ | ✓ | |
| ~~JUDITH FRASER~~ | ~~MPA GOOD CAUSE~~ | ✓ | |
| PAT KEHER | TRAVOIS VILLAGE | X | |
| Vicky Fascione | H.E.K.E. | X | |
| Bev Fitch-Fleischmann | Kids | ✓ | |
| ~~Lt~~ Jim Fleischmann | MPA | ✓ | |
| Steve Mandeville | Mt Assoc Realtors | | X |
| GLENN W. DECKER | GREAT FALLS RIVERSHORE M.H.P. | | X |
| Kathleen Decker | GREAT FALLS Freedom M.H.P. | | ✓ |
| Bob Cox Belgrade | Lexley Acres | X | |
| Christine Cox Belgrade | Lexley Acres | ✓ | |
| NINA CRAMER | MPA | ✓ | |
| Carol Mofield | West View Trailer Pk | ✓ | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Eleanor Wend Forest Park T.C ✓
BOZEMAN

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Econ COMMITTEE BILL NO. HB 422

DATE Feb 5, 1993 SPONSOR(S) Rep. Larson

**PLEASE PRINT PLEASE PRINT PLEASE PRINT**

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Mikelete Meade | Msla Trange Ranger tr. Court | X | |
| Sue Prichard | Target Range Tr Court | X | |
| Brian Probst | Target Range Court | X | |
| Maggie Hietala | " " " | X | |
| James Boone | Msla Vlg Ln Mobile home | X | |
| Bruce Hietala | Target Range MRC Missoula MT. | X | |
| Ron Wagner | Target Range T.C. Missoula MT | X | |
| Lynda Hart | Mission Mobile Home Park | X | |
| Mid Dockins | " " " | X | |
| Louis DelValle | " " " | X | |
| Alice Campbell | 1618 Sherwood Msla 59802 | X | |
| John Arvish | Missoula Village West Trailer Park 3005 Hwy 10 W. #27 Msla | X | |
| Stacey Doffe | Target Range Missoula | X | |
| Vernon Collins MHA | 1000 N 11th Ave #238 Bozeman MT 59715 | X | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Econ COMMITTEE BILL NO. 422

DATE 2-5-93 SPONSOR(S) Rep Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|---|---|---|---|
| Ted Vinton | Landlords | | X |
| Marie Vinton | WMLSA | | X |
| TED VINTON JR | MSLA | | X |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**REP. SONNY HANSON** called the question to adopt the amendment. Voice vote was taken. Motion carried unanimously. **EXHIBIT 15**

Motion/Vote: **REP. DOWELL MOVED HB 321 DO PASS AS AMENDED. REP. SONNY HANSON** called the question. Roll call vote was taken. Motion failed 4 - 14.

Motion/Vote: **REP. SONNY HANSON MOVED HB 321 BE TABLED.** Everyone voted to use Exhibit 17 as the reverse vote to table. Motion carried 14 - 4 with **REPS. DOWELL, PAVLOVICH, COCCHIARELLA AND DAILY** voting no. **EXHIBIT 17**

Vote: **HB 321 BE TABLED AS AMENDED.** Motion carried 14 - 4.

## EXECUTIVE ACTION ON HB 422

Motion: **REP. LARSON MOVED HB 422 DO PASS.**

Discussion: **REP. LARSON** moved to adopt the amendment and the gray bill. **REP. LARSON** explained how the amendments affect the bill. He said the amendments (exhibit 18) are to be thrown away and use the gray bill (exhibit 19). **EXHIBITS 18 & 19**

Motion/Vote: **REP. SIMON MADE A SUBSTITUTE MOTION THAT HB 422 BE TABLED AS AMENDED.** Voice vote was taken. Motion carried 17 - 1 with **REP. PAVLOVICH** voting no.

Vote: **HB 422 BE TABLED AS AMENDED.** Motion carried 17 - 1.

## EXECUTIVE ACTION ON HB 538

Motion: **REP. LARSON MOVED HB 538 DO PASS.**

Discussion: None

Motion/Vote: The question was called. Voice vote was taken. Motion carried unanimously.

Vote: **HB 538 DO PASS.** Motion carried 18 - 0.

## EXECUTIVE ACTION ON HB 82

Motion: **REP. TUSS MOVED TO RECONSIDER ACTION ON HB 82 AND TAKE FROM THE TABLE.**

Discussion: The question was called to take from the table. Roll call vote was taken. Motion carried 12 - 6. **EXHIBIT 20**

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 2-15-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. ALVIN ELLIS | ✓ | | |
| REP. DICK KNOX | ✓ | | |
| REP. NORM MILLS | ✓ | | |
| REP. JOE BARNETT | ✓ | | |
| REP. RAY BRANDEWIE | ✓ | | |
| REP. JACK HERRON | ✓ | | |
| REP. TIM DOWELL | ✓ | | |
| REP. CARLEY TUSS | ✓ | | |
| REP. STELLA JEAN HANSEN | ✓ | | |
| REP. BOB PAVLOVICH | ✓ | | |
| REP. VICKI COCCHIARELLA | ✓ | | |
| REP. FRITZ DAILY | ✓ | | |
| REP. BOB BACHINI | ✓ | | |
| REP. DON LARSON | ✓ | | |
| REP. BRUCE SIMON | ✓ | | |
| REP. DOUG WAGNER | ✓ | | |
| REP. SONNY HANSON, VICE CHAIRMAN | ✓ | | |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | | |
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EXHIBIT 18
DATE 2-15-93
HB 422

Amendments to House Bill No. 422
First Reading Copy

Requested by Representative Larson
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 14, 1993

1. Title, lines 6 through 8.
Strike: lines 6 and 7 in their entirety through "CIRCUMSTANCES" on line 8

2. Page 4, line 9.
Following: **"arbitration"**
Insert: **"and mediation"**

3. Page 4, lines 13 and 14.
Strike: ", unfair, or unconscionable"

4. Page 4, line 21, through page 5, line 1.
Following: "(d)" on page 4, line 21
Strike: remainder of line 21 through "section" on page 5, line 1
Insert: "rules must be written and given to all mobile home park residents who reside in the mobile home park and, upon arrival, to all new residents"

5. Page 5, line 4.
Strike: "without the approval of"
Insert: "only after consultation with"

6. Page 5, line 4, through page 6, line 11.
Following: "." on line 4, page 5
Strike: remainder of line 4 and line 5 through page 6, line 11 in their entirety
Renumber: subsequent subsection

7. Page 6, lines 19 and 20.
Strike: line 19 in its entirety and line 20 through "."

*{Amendment No. 7 is not shown on the amendment sheet submitted Feb. 11 by Jim Parker, but the language stricken here is not in the revised draft that Mr. Parker provided on Feb. 11 to accompany the requested amendments}*

8. Page 7, line 19.
Strike: "(a)"

9. Page 7, line 24, through page 8, line 8.
Strike: subsection (b) in its entirety

10. Page 8, lines 18 through 22.
Following: "condition" on line 18

Strike: remainder of line 18 through "park" on line 22

11. Page 8, line 24, through page 9, line 19.
Following: "necessary" on line 24, page 8
Strike: remainder of line 24 and through "reached" on line 19, page 9

*{Amendments No. 10 and 11 differ from the language on the amendments sheet submitted by Mr. Parker on Feb. 11, but they conform to the text of the revised draft that accompanied the amendments sheet.}*

EXHIBIT 19
DATE 2-15-93
HB 422

# PROPOSED FINAL DRAFT FOR HB 422:

[SPONSORED BY REP. LARSON] [2/11/93]

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS; AUTHORIZING THE CREATION OF MOBILE HOME PARK RESIDENT ASSOCIATIONS; SETTING FORTH THE MAINTENANCE RESPONSIBILITIES OF MOBILE HOME PARK OPERATORS; AMENDING SECTION 70-24-103, MCA."

Section 1. [DEFINITIONS-NO CHANGES]

Section 2. Mobile Home Parks---Park rules

(1) A mobile home park operator may adopt a rule concerning the rental occupancy of a mobile home space and the use of common areas and facilities in accordance with 70-24-311 and the following:

(a) No rule may be unreasonable.

(b) Any rule that does not apply uniformly to all mobile home residents of a similar class creates a rebuttable presumption, as defined in 70-24-431, that the rule or change in rule is unfair.

(c) the rule has been approved as provided in subsection (2);

(d) all rules, including new rules, must be written and given to all mobile home park residents who reside in the mobile home park and to all new residents upon arrival.

(2) If a resident association exists for a park, then no change in a rule may be implemented without the consultation

of the organization.

(3) Each common area facility must be open or available to residents at all reasonable hours, and the hours of a common recreational facility must be posted at the facility.

Section 3. (1) The membership of a resident association may elect officers of the association at a meeting at which a majority of the members are present. All residents may attend meetings, ~~but~~ the mobile home park operator and the operator's employees may ~~not~~ be members, ~~and and may not attend meetings unless specifically invited to a particular part of the meeting. An officer or member of a resident association is not personally financially responsible for the acts or omissions of the association or other officers or members of the association.~~

(2) [no changes]

(3) A mobile home park operator may not harass or threaten any resident association or engage in unfair or deceptive conduct to inhibit or interfere with the creation or operation of an association.

(4) (a) The mobile home park operator ~~shall~~ permit meetings by a resident association or residents relating to mobile home living or social or educational purposes, including forums for or speeches by public officials or candidates for public office.

Section 4. (1) In a rental agreement the mobile home park operator is considered to covenant and warrant that the space

habitable

EXHIBIT 19
DATE 2-15-93
HB 422



(2) In addition to the obligations imposed by 70-24-303, the mobile home park operator shall:

(a) maintain roads within the mobile home park in a safe condition.

(b) maintain the premises and regrade them when necessary.

(3) If a mobile home park operator fails to comply with this section, the resident may recover damages for the breach pursuant to 70-24-406 or make the repairs pursuant to 70-24-406.

- end -

**REP. LARSON** moved to adopt amendments proposed by the Montana Retail Association. **REP. LARSON** explained his amendments will strike the fines currently proposed in the bill and insert lesser fees. **REP. ELLIS** called the question. Voice Vote was taken. Motion carried unanimously.

**REP. SIMON** moved to strike section 9. Roll call vote was taken. Motion failed 6 - 12. **EXHIBIT 15**

Motion/Vote: **REP. PAVLOVICH MOVED HB 548 DO PASS AS AMENDED.** Roll call vote was taken. Motion carried 10 - 8. **EXHIBIT 16 & 30**

Vote: **HB 548 DO PASS AS AMENDED.** Motion carried 10 - 8.

## EXECUTIVE ACTION ON HB 596

Motion: **REP. BRANDEWIE MOVED HB 596 DO PASS.**

Discussion: **REP. BRANDEWIE** moved to adopt the amendment prepared by Roger Tippy. The question was called. Voice vote was taken. Motion carried 17 - 1 with **REP. DAILY** voting no. **EXHIBIT 17 & 24**

Motion/Vote: **REP. BRANDEWIE MOVED HB 596 DO PASS AS AMENDED.** **REP. BARNETT** called the question. Voice vote was taken. Motion carried 6 - 12 with **REPS. DOWELL, DAILY, COCCHIARELLA, PAVLOVICH, TUSS, AND STELLA JEAN HANSEN** voting no.

Vote: **HB 596 DO PASS AS AMENDED.** Motion carried 12 - 6.

## EXECUTIVE ACTION ON HB 422

Motion: **REP. LARSON MOVED TO RECONSIDER ACTION ON HB 422 AND TAKE FROM THE TABLE.**

Roll call vote was taken. Motion carried 11 - 7. **EXHIBIT 18**

Discussion: **REP. LARSON** said HB 422 will establish standards for adopting rules for mobile home parks. He said HB 422 will require two things: 1) require rules to be written for a mobile home park; and 2) to permit the establishment of mobile home park associations. **EXHIBIT 19**

**REP. LARSON** moved to adopt the amendment. Roll call vote was taken. Motion carried 18 - 0. **EXHIBIT 20**

**REP. BRANDEWIE** said **REP. LARSON'S** amendments don't do exactly what needs to be done. He asked Paul Verdon if language could be drafted that would state "all rules and regulations will be in

written form and be made available to all of the tenants". **EXHIBIT 25**

Motion/Vote: **REP. LARSON MOVED HB 422 DO PASS AS AMENDED.** Roll call vote was taken. Motion carried 14 - 4 with **REPS. BARNETT, PAVLOVICH, BACHINI, AND VICE CHAIRMAN SONNY HANSON** voting no. **EXHIBIT 21**

Vote: **SB 422 DO PASS AS AMENDED.** Motion carried 14 - 4.

## EXECUTIVE ACTION ON HB 155

Motion: **REP. PAVLOVICH MOVED TO RECONSIDER ACTION ON HB 155 AND TAKE FROM THE TABLE.**

Discussion: REP. PAVLOVICH distributed amendments for the denturity bill. **EXHIBIT 22**

Motion/Vote: The question was called. Roll call vote was taken. Motion failed 7 - 11 to take from the table. **EXHIBIT 23**

Vote: **HB 155 BE TABLED.** Motion failed 7 - 11.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 2-18-93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. ALVIN ELLIS | ✓ | | |
| REP. DICK KNOX | ✓ | | |
| REP. NORM MILLS | ✓ | | |
| REP. JOE BARNETT | ✓ | | |
| REP. RAY BRANDEWIE | ✓ | | |
| REP. JACK HERRON | ✓ | | |
| REP. TIM DOWELL | ✓ | | |
| REP. CARLEY TUSS | ✓ | | |
| REP. STELLA JEAN HANSEN | ✓ | | |
| REP. BOB PAVLOVICH | ✓ | | |
| REP. VICKI COCCHIARELLA | ✓ | | |
| REP. FRITZ DAILY | ✓ | | |
| REP. BOB BACHINI | ✓ | | |
| REP. DON LARSON | ✓ | | |
| REP. BRUCE SIMON | ✓ | | |
| REP. DOUG WAGNER | ✓ | | |
| REP. SONNY HANSON, VICE CHAIRMAN | ✓ | | |
| REP. STEVE BENEDICT, CHAIRMAN | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

February 19, 1993



Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 422 (first reading copy -- white) do pass as amended .

Signed: _____

Steve Benedict, Chair

And, that such amendments read:

1. Title, lines 6 through 8.
Strike: lines 6 and 7 in their entirety through "CIRCUMSTANCES;" on line 8

2. Title, lines 9 through 11.
Following: ";" on line 9
Strike: remainder of line 9 through ";" on line 11

3. Title, line 11.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: ", 70-24-311, AND 70-24-431"

4. Page 4, lines 12 and 13.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

5. Page 4, line 15.
Strike: "a"
Insert: "A"

6. Page 4, line 18, through page 6, line 11.
Strike: ";" on line 18, page 4 through "court" on line 11, page 5

Insert: "(b) All rules must be written and must be given to each mobile home park resident who resides in a mobile home park and to all new residents of a mobile home park upon arrival."
Renumber: subsequent subsection

Committee Vote:

7. Page 6, lines 15 and 16.
Strike: "-- harassment prohibited"
Following: "meetings." on line 16
Strike: "(1)"

8. Page 6, lines 19 and 20.
Strike: line 19 in its entirety through "." on line 20

9. Page 6, line 21.
Strike: "but"
Insert: "and"

10. Page 6, lines 22 and 23.
Strike: "not be members and may not"

11. Page 6, line 23 through page 9, line 23.
Following: "meetings" on line 23, page 6
Insert: "."
Strike: the remainder of section 3 and section 4 in its entirety
Insert: "Section 4. Section 70-24-311, MCA, is amended to read:

"70-24-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall adopt written rules concerning the tenants' use and occupancy of the premises.

~~(2)~~ (3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days'

notice in the case of tenancies from month to month."

Section 5. Section 70-24-431, MCA, is amended to read:

"70-24-431. Retaliatory conduct by landlord prohibited. (1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2)."

-END-

EXHIBIT 25
DATE 2-18-93
HB 422

Amendments to House Bill No. 422
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 18, 1993

1. Title, lines 6 through 8.
Strike: lines 6 and 7 in their entirety through "CIRCUMSTANCES;" on line 8

2. Title, lines 9 through 11.
Following: ";" on line 9
Strike: remainder of line 9 through ";" on line 11

3. Title, line 11.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: ", 70-24-311, AND 70-24-431"

4. Page 4, lines 12 and 13.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

5. Page 4, line line 15.
Strike: "a"
Insert: "A"

6. Page 4, line 18, through page 6, line 11.
Strike: ";" on line 18, page 4 through "court" on line 11, page 6

Insert: "(b) All rules must be written and must be given to each mobile home park resident who resides in a mobile home park and to all new residents of a mobile home park upon arrival."
Renumber: subsequent subsection

7. Page 6, lines 15 and 16.
Strike: "**-- harassment prohibited**"

8. Page 6, lines 19 and 20.
Strike: line 19 in its entirety through "." on line 20

9. Page 6, line 21.
Strike: "but"
Insert: "and"

10. Page 6, lines 22 and 23.
Strike: "not be members and may not"

11. Page 6, line 23 through page 9, line 23.
Following: "meetings" on line 23, page 6

Insert: "."
Strike: the remainder of section 3 and section 4 in its entirety
Insert: "**Section 4.** Section 70-24-311, MCA, is amended to read:

"**70-24-311. Landlord authorized to adopt rules.** (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall adopt written rules concerning the tenants' use and occupancy of the premises.

~~(2)~~(3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days' notice in the case of tenancies from month to month."

**Section 5.** Section 70-24-431, MCA, is amended to read:

"**70-24-431. Retaliatory conduct by landlord prohibited.** (1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of

a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2)."""

EXHIBIT 25
DATE 2-15-93
HB 422

"influence". Representative Brown and Representative Harper stated the first amendment was acceptable. Senator Lynch then suggested the word "substantial" should be continued through HB 94 when referring to gifts and gratuities. Representative Harper stated he had no objections to the addition of the word "substantial".

Referring to 1(d), Senator Klampe asked about the language. He stated he felt it was not clear. Representative Harper stated the language refers to the whole section and not just the section under 1(d).

Senator Christiaens asked what the legal interpretation of "reasonable" was. Bart Campbell stated "reasonable" was ruled on according to the facts and was on a case-by-case basis.

Senator Brenden asked about the rules regarding "classes" of people and personal interests. Senator Lynch stated a bill has to effect a person almost exclusively or effect a class with which a person is closely related to or works for.

Senator Mesaros asked Representative Brown if the personal interest has to be narrowed down to a given period of time when the legislation is being addressed. Representative Brown stated if something evolves at a later date which had no previous connection to the legislation, then it is excluded.

Senator Bruski-Maus stated she had carried a bill regarding gas wells and one of the Representatives excused himself from voting on the bill because he owned interest in gas wells. She then asked Representative Brown if the personal interest rule would apply to that Representative. Representative Brown stated the rule probably did not apply to him, and he did not have to excuse himself from the vote.

Senator Gage stated he had a concern with the effecting of an entire membership of a class. Representative Brown stated the personal interest clause only comes into effect if the legislation effected the legislator by an increase in compensation which was more than the rest of a "class".

Senator Lynch thanked Representative Brown and Representative Harper for clarifying the problems and questions which had been brought up on the Senate floor.

## HEARING ON HB 422

Opening Statement by Sponsor:

Representative Don Larson, House District 65, stated HB 422 would establish standards for the adoption of mobile home park rules. He stated HB 422 would also institute rules by which a mobile home association can be formed. He supplied proposed amendments

to HB 422 and reviewed them with the Committee (Exhibit #1).

**Proponents' Testimony**:

Cindy Muree, Travois Village, Missoula, supplied the Committee with a packet of information on HB 422 (Exhibit #2). She stated there is a need to amend the landlord/tenant act to accommodate the number of residents who live in mobile homes.

Lloyd Anderson, East Helena, Montana, stated his support of HB 422.

Lela DeCock, Belgrade, Montana, stated her support of HB 422. She stated mobile home owners deserve the same rights as renters. She stated the mobile home owners also deserve consistency in the rules. She stated HB 422 would ask for fair, written rules which apply to everyone equally.

Ron Graft, Missoula, Montana, stated his support of HB 422. He stated the deleted language of pages 6 and 7, section 3, would make it mandatory to invite the mobile home park landlord to the mobile home court association's meetings. He stated the landlord being present would inhibit the meeting and communications of the members.

Klaus Sitte, Attorney, Montana Legal Services Association, stated his support of HB 422. He stated the Landlord/Tenant Act needs revision for the changing housing needs in Montana. He stated the tenants of trailer parks need the ability to organize their forces and to improve their living conditions.

Christine Cox stated her support of HB 422. She stated the tenants need the right to organize tenant associations.

Cathie Huguenin, Missoula, stated her support of HB 422. She stated there was a need for written rules which could be enforced in the trailer parks.

Bill Olson, State Legislative Committee of American Association of Retired Persons, stated his support of HB 422. He stated he represented 110,000 members.

John Wyman, Great Falls Resident Association, stated his support of HB 422.

Bob Christiaens stated his support of HB 422. He stated he was speaking on behalf of the Resident's Association of his mobile home park.

Janet Salmonson, Westview Trailer Park, supplied the Committee with a written report and letters (Exhibit #3).

Ron Wagner, Missoula, stated his support of HB 422. He stated the formation of an association and protection of the association is important.

Percy Jones, Missoula, stated his support of HB 422. He stated HB 422 would protect the people who live in the trailer courts.

Mary Chessmore, Missoula, stated her support of HB 422.

Sue Prichard, Missoula, stated her support of HB 422.

Opponents' Testimony:

Robert Dunlop, Helena, stated he opposed HB 422. He stated he has never had a problem with associations being formed and he had furnished rules to the tenants. He stated he felt HB 422 was unnecessary and would cause more burden to the mobile home park owners.

Greg VanHorssen, Montana Landlord's Association, Income Property Managers Association, stated his opposition to HB 422. He supplied the Committee with some proposed amendments to HB 422 (Exhibit #4) and reviewed them with the Committee.

Mary McKue, Montana Mobile Home Park Owners, stated she opposed HB 422. She stated they had worked with Representative Larson in the House to amend HB 422 so it would meet the needs of the landlords and the tenants. Referring to the language on page 11, she stated there should be no requirement for a landlord to adopt rules. She stated if there are rules, the landlord should have them in writing and the tenant should be cognizant of the rules. She stated she felt the terms of the rental agreement and the provisions in the Landlord/Tenant laws are sufficient to cover their relationships with the tenants. She stated HB 422 would require every landlord adopt rules.

Lance Clark, Montana Association of Realtors, stated he opposed HB 422. He stated he concurred with Mr. VanHorssen's amendments. He stated he felt the adoption of rules should be discretionary and not mandatory. Referring to section 4, subsection 3, Mr. Clark stated the 30 day rule was a lack of compliance.

Questions From Committee Members and Responses:

Senator Lynch asked Mr. Clark if the sections he had referred to were in the existing law. Mr. Clark stated they were.

Senator Klampe asked Mr. Clark why it would be difficult for the landlords to write up their rules. Mr. Clark stated the written rules should be at the discretion of the landlords. Senator Klampe asked Mr. Clark why he felt it was unreasonable for the landlords to be required to write up their rules. Mr. Clark

stated the smaller courts may not have a common facility area and no need for elaborate rules.

Senator Gage asked Jim Parker, Montana Peoples Action, if there was a penalty for landlords who did not comply with the law. Mr Parker stated there was no provision for penalties and the only regulatory agency in Montana were the City/County Health Departments. Mr. Campbell stated without the rules being supplied to the tenants, the landlords could not enforce them.

Senator Koehnke asked Mr. Parker who owns the majority of the trailers in the courts. Mr. Parker stated most of the homes are owned by the residents.

Senator Koehnke asked Greg VanHorssen if people who belong to his association had to pay a membership fee. Mr. VanHorssen stated some of the Income Property Managers do not belong to the Associations.

Senator Lynch asked Representative Larson where HB 422 stood when it came out of the House. Representative Larson stated the amendments had been concessions to major groups. He stated the tenants association felt HB 422 had been gutted and were trying to bring HB 422 back to its original standing.

Senator Lynch asked Representative Larson why the Senate Committee should reinstate the changes made in the House. Representative Larson stated HB 422 was on behalf of the tenants and the tenants associations would lobby for the changes.

Senator Lynch asked Representative Larson why he wanted an immediate effective date. Representative Larson stated the tenants feel there is an urgency to adopt HB 422. He stated he felt an immediate effective date was improbable and he would accept any changes made by the Committee.

Referring to the third amendment, Senator Lynch stated he felt it would be inviting litigation on the "reasonableness" of a rule. Representative Larson stated the section would be in conformity with HB 245. He stated "reasonable" would also conform with the Landlord/Tenant act which uses "reasonable" throughout.

Referring to amendment number 13 and 14, Senator Lynch asked Mr. VanHorssen if these were already in the law, what the fear was that it was included in HB 422. Mr. VanHorssen stated there was no remedy if the Legislature makes another law which is already on the books. He stated the addition of the law would increase the size and expense of the codes. He stated the laws exist, but just need to be enforced.

Senator Klampe asked Mr. Parker if HB 422 would be a duplication of law. Mr. Parker stated the laws were not currently in the MCA and the Landlord/Tenant law needs to be updated. He stated HB 422 would be a clarification of definitions.

Senator Klampe asked Mr. VanHorssen if it was unconstitutional to form a Residents Association and exclude the Landlord from the meetings. Mr. VanHorssen stated there was nothing unconstitutional in the formation of a Residents Association. He stated HB 422 would not allow for an employee of the landlord who lives in the park to attend the meetings or to join the organization.

Senator Lynch stated the employee might "snitch".

Senator Christiaens asked Mr. Parker where a tenant would go to press charges for harassment. Mr. Parker stated currently there is no remedy and the people who are being harassed lack resources and knowledge of current laws. He stated there is no regulatory agency to help the tenants.

Senator Gage asked Mr. Parker if the residents could form an Association without statutory authority. Mr. Parker stated the residents could form an Association, but are threatened and harassed if they do.

Senator Koehnke stated the residents could meet outside of the trailer courts without the owner present.

Senator Rea asked Lela DeCock if the landlords would have the ability to adopt any rules they wanted. Ms. DeCock stated the word "unreasonable" would clarify the ability to adopt rules. She stated the tenant would have the choice of reading and obeying the rules or not moving into the trailer court. She stated if a person moved into a court and did not sign the rules, the rules would apply to the tenant after 30 days.

Senator Bruski-Maus stated she would like a provision in HB 422 which would allow the residents to invite the landlord to the Association's meetings.

Closing by Sponsor:

Representative Larson stated HB 422 was asking for written, reasonable and fair rules. He stated HB 422 was needed to protect the people in the trailer courts. He stated road maintenance is important and HB 422 would clarify the Landlord/Tenant Act. Representative Larson stated he was willing to change the effective date to October.

## EXECUTIVE ACTION ON HB 509

Announcement:

Senator Lynch announced Representative Pavlovich requested HB 509 be tabled in Committee.

ROLL CALL

SENATE COMMITTEE Business and Industry DATE 3/24/93

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Senator Lynch | ✓ | | |
| Senator Christiaens | ✓ | | |
| Senator Brenden | ✓ | | |
| Senator Gage | ✓ | | |
| Senator Hager | | | ✓ |
| Senator Harding | ✓ | | |
| Senator Kennedy | ✓ | | |
| Senator Klampe | ✓ | | |
| Senator Koehnke | ✓ | | |
| Senator Mesaros | ✓ | | |
| Senator Rea | ✓ | | |
| Senator Bruski-Maus | ✓ | | |
| Senator Wilson | | ✓ | |
| | | | |

Amendments to House Bill No. 422
Third Reading Copy

Requested by Representative Larson
For the Committee on Business and Industry

Prepared by Greg Petesch
March 23, 1993

1. Title, lines 13 and 14.
Strike: "AND" on line 13
Following: "MCA" on line 14
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 4, line 12.
Strike: "-- arbitration"
Strike: "operator"
Insert: "landlord"

3. Page 4.
Following: line 17
Insert: "(a) a rule may not be unreasonable;"
Renumber: subsequent subsections

4. Page 4, line 18.
Following: "a"
Strike: "A"
Insert: "a"

5. Page 4, line 21.
Following: "~~,~~"
Insert: "; and"

6. Page 6, line 14.
Strike: "."

7. Page 6, line 15.
Strike: "WRITTEN"
Insert: "in writing"

8. Page 6, line 16.
Strike: "PARK RESIDENT"
Insert: "owner or tenant of a mobile home"
Strike: "A"
Insert: "the"

9. Page 6, line 17.
Strike: "ALL NEW RESIDENTS OF A MOBILE HOME PARK"
Insert: "each resident"

10. Page 6, line 23.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3/24/93
BILL NO. HB 422

Following: "meetings"
Insert: "-- harassment prohibited"
Following: "."
Insert: "(1)"

11. Page 7, line 3.
Strike: "AND"
Insert: "but"

12. Page 7, line 5.
Following: "~~not~~"
Insert: "not be members and may not"
Following: "meetings"
Insert: "unless specifically invited by the resident association"

13. Page 10, line 6.
Following: line 5
Insert: "(2) A mobile home park landlord may not harass or threaten members of any resident association or engage in unfair or deceptive conduct to inhibit or interfere with the creation or operation of an association.

(3) The mobile home park landlord shall permit meetings by a resident association or residents relating to mobile home living.

NEW SECTION. Section 4. Mobile home park operator's road maintenance obligations. In addition to the obligations imposed by 70-24-303, the mobile home park operator shall maintain roads within the mobile home park in a safe condition, including arranging for snow removal."
Renumber: subsequent sections

14. Page 13, line 5.
Following: line 4
Insert: "NEW SECTION. Section 7. {standard} Codification instruction. [Sections 2 through 4] are intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [sections 2 through 4].

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

# "PEOPLE FIGHTING FOR A GOOD CAUSE"

# - CAMPAIGN '93

PROPONENTS PACKET: HB 422

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/24/93
BILL NO. HB 422

# HB 422: RULES, RESIDENT ASSOC., MAINTENANCE

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# TESTIMONY: "PEOPLE FIGHTING FOR A GOOD CAUSE" - CAMPAIGN '93

• SENATE BUSINESS AND INDUSTRY COMMITTEE •

(WEDNESDAY MARCH 24, 1993 ROOM 410)

HB 422: RULES, RESIDENT ASSOCIATIONS MAINTENANCE

[APPROX. *15 MINUTES*]

[SUBJECT TO CHANGE]

| NAME: | |
|---|---|
| A] REP. DON LARSON | SPONSOR OF HB 422 - OPENING |
| 1] CINDY MOREE | TRAVOIS VILLAGE |
| 2] LELA DECOCK | LEXLEY ACRES/BELGRADE, MT. |
| 3] RON GRAFFT | TRAVOIS VILLAGE |
| 4] BEA STEEN | GOLDEN ESTATES, HELENA, MT. |
| 5] CHET KINSEY | MT. SENIOR CITIZEN'S ASSOC./MLIC |
| 6] CHRIS COX | LEXLEY ACRES/ BELGRADE, MT. |
| 7] KLAUS SITTEE | LEGAL SERVICES ATTORNEY |
| 8] CATHIE HUGUENIN | VILLAGE WEST/MISSOULA |
| 9] BILL OLSEN | AMER. ASSOC. RETIRED PERSONS |
| 10] JOHN WYMAN | RESIDENT'S ASSOC./GT. FALLS, MT. |
| 11] BOB CHRESTENSON | LEISURE COURT - LOLO, MT. |
| 12] RON WAGNER | TARGET RANGE COURT |
| B] REP. DON LARSON | SPONSORS' CLOSING REMARKS |

Exhibit 2
3-24-93
HB-422

Mr. Chairman, Members of the Committee:

My name is Jim O'Brien. I am an attorney in private practice in Missoula, Montana. I currently represent three different tenant associations which have sprung up in the last year and a half. The associations consist of owners and renters of mobile homes in various mobile home trailer courts in Missoula.

I request that you give serious consideration to the legislation being proposed to you this day. I am currently engaged in three separate landlord/tenant lawsuits. The first, and by far the largest, is the Travois Resident's Association. There are over 200 families involved in the Association. They were formulated principally to protect themselves from wide-ranging and preposterous regulations. The current state of the law allows landlords to impose "reasonable" rules and regulations upon their tenants. The tenants' only remedy is to seek redress in court. The current Landlord Tenant Act does not sufficiently protect mobile home owners and renters from arbitrary conduct on the part of the landlord. In particular, Moore Enterprises, the landlord involved in the Travois Mobile Home Trailer Park, has regularly engaged in practices which have imposed tremendous burdens on the residents. For example, the landlord has regularly terminated water supply without notice, opining that he is unable to provide advance notice for repairs to the water system. Moore Enterprises has publicly announced the imposition of a body of rules, some of which are clearly illegal (for example, refusal to accept cash as

payment for rent, unduly restricting the sale of mobile homes, requiring mobile homes within the trailer park to meet unspecified "beauty" standards).

Moore Enterprises has both publicly announced that the rules are in force and later claimed they were not. My clients are unable to rely upon anything the landlord says.

Moore Enterprises has engaged in a systematic breach of its agreement with the residents. Despite the promise of snow removal, regular video taping not only demonstrates the landlord's failure to timely remove snow. Regular mid-week videotaping has demonstrated that, despite multiple written and oral complaints, Moore Enterprises has refused to provide sufficient garbage service to meet the needs of the community.

As this testimony is being presented to you, service upon a second landlord has been obtained on a second lawsuit as a result of the landlord's unwillingness to respond to informal overtures to correct hazardous conditions. In particular, the Sherwood's Mobile Home Trailer Court Association is subjected to power lines so low as to be a danger to residents. Despite the fact that the residents informally requested, over six months ago, to have the condition remedied, the landlord has, nevertheless, ignored their requests. Currently, five family units in the Association are not receiving nor have they received hot water for over sixty days. Conditions at the Sherwood Court are deplorable. Nevertheless, the tenants remain vulnerable to arbitrary decision on the part of the landlord.

These tenants need the additional legislation proposed to you in order to obtain protection.

I mentioned at the outset that I represent three associations. The third association is a collection of 16 families out of a trailer court of 65. The landlord of the trailer court in which this association is formulated has, quite rightly, noted that the association is made up of less than a majority of the residents. He has, quite rightly, identified that the other tenants are not joining the association. The obvious question is, why? The answer is equally obvious. Just as the association began to formulate, one of the principles received a notice of termination. The termination notice was very public and, of course, included no reason for the termination. The termination had the desired effect: The tenant's union halted almost immediately. Why should the forty-nine families join a tenant's union when to do so jeopardizes their very home? Termination without just-cause prevents the equality of bargaining because the stakes are much higher to a family. In Missoula, the housing crush is so substantial that there is no viable means for a family to move its mobile home within thirty days.

Currently I am representing an individual single father of two children. Not uncommonly, like many families, there is an ongoing divorce. The father currently has custody of his children. In August of this year the father was at home with his children. The father was on the telephone engaged in a long-distance conference business call. Management presented itself on his doorstep and

demanded of the father's minor child that the father come and correct a minor trailer court violation immediately. When the father was unable to respond to management's demands, the child was verbally abused. When the father finally arrived at the doorstep, after leaving the conference call, the father confronted management with intemperate language over the treatment of his child. The next day the father received a thirty day notice of termination. No reason was given, but the father later learned that the intemperate language exchanged on his doorstep formulated the principal basis for termination.

Legislation is needed to prevent arbitrary evictions of tenants. While the Residential Landlord Tenant Act was progressive for its time, new legislation is necessary to recognize the changing demographics of housing and family circumstances. There are horror stories upon horror stories of landlord mistreatment of tenants.

The landlord/tenant relationship should be a business relationship. The landlord is entitled to protection from abusive tenants and to ensure the smooth operation of his business. Equally important, however, is the recognition that we are dealing with people's homes. The essence of the legislation before you is to assure that there is just-cause, a good reason to remove a family from their home. What we present to you today is not to empower the tenants to strip a landlord of his property rights. Rather, the legislation presented for your consideration merely equalizes the relationship between the parties. When there is a

bad reason, or no reason, to terminate tenancy, there is likewise no reason to have a person removed from his home. The landlords I have dealt with over the last year and a half opine cooperation while using every available avenue to obstruct a meaningful exchange of ideas and resolutions. Proponents of the legislation which is now before you have spent months attempting to receive input from landlord associations across the state of Montana. Landlords can be assured that the government supports evictions which are based upon appropriate reasons. Tenants, likewise, can be assured that they will not be removed from their home against their will without justification. I respectfully request that you recommend a "Do-Pass" to the legislation before you. All the population of Montana will benefit by a provision in the law which requires that people be given just-cause for the termination of their tenancy.

# Tenants fighting eviction

Bozeman Daily
CHRONICLE
Friday, March 19, 1993 • Bozeman, Montana



by JOE KOLMAN
Chronicle Staff Writer

Alice Janke and Jerald Swenson are at each other's throats over where Janke will live.

Swenson, owner of Belgrade's Lexley Acres mobile home park, is in court for a second time trying to evict Janke and her family because he says their lot is always messy.

Two other residents have stalled Swenson's attempts evict them by appealing lower court decisions to Gallatin County District Court and refusing to leave the park.

The feud centers around the Montana law allowing trailer court owners to give tenants a 30-day notice of eviction without offering a cause.

Janke and other Lexley Acres tenants have joined Montana People's Action, a state mobile home owners association, in support of support two bills before the Legislature which strengthen the rights of mobile home owners.

One bill deals with rules and maintenance responsibilities in trailer courts while the other would require park owners to provide a reason for eviction.

Being required to explain an eviction "smells of communism and fascism," said Swenson, who has owned the 100-lot park for 14 years. "If I have to have a good enough reason to kick them out they have to have a good enough reason to leave."

Swenson said his reason for trying to evict the Janke's, six-year residents, is because he has told them time and time again to clean up their yard, which he said is littered with bicycles and other "junk."

"No one wants to live next door to a mess," he said. "A lot of people have complimented me on getting rid of these people who don't take care of their places."

In February, Swenson issued "Lexley Grams" to tenants,

(More on Tenants, page 12)

## Tenants/*from page 1*

which he called a warning. The message stated, "It is time for spring cleaning. No outside storage. Get a shed. I'm looking for the worst yard in each street to evict."

"To Jerry, everything's junk," Janke said. "I can comply all I want. I can comply until my face turns blue and he will still evict me.

"I just get so mad," Janke said, her voice cracking. "He just chooses the person he wants to choose and that person gets evicted."

Two-year Lexley resident Sharon Tusken said, "The owner here would evict a person who had an old mobile home so a newer one could move in.

"I don't think he ever evicts anyone with a new mobile home."

James Sternhagen, whose lawsuit appealing his eviction last summer will be tried in April, said Swenson objected to Sternhagen's 1976 mobile home.

"He says now he wants nothing but '86 or newer in his trailer court," Sternhagen said.

"I don't like junkers around," Swenson said, but added that the oldest home in the park was the best kept. He would not say why Sternhagen was evicted.

Nor would Swenson comment on the eviction of Agnes Merwin last summer, which has also been appealed to district court and scheduled for trial in April. Court documents filed by Merwin state her eviction was in retaliation to her filing a complaint against Swenson with the Montana Human Rights Commission.

Merwin could not be reached for comment and the Human Rights Commission does not release complaints until an investigation is complete.

The evictions strengthen the belief by Montana People's Action that Swenson "acts in an erratic and unreasonable way," MPA spokesman Jim Parker said.

Swenson said he evicted four or five tenants last year, mostly for violations of court rules such as late payment and unkempt lots.

In a 1991 Lexley Gram, Swenson wrote, "I getting rid of all people who ignore the court rules. So far I've evicted two mobile homes three months ago, 10 mobiles two months ago and four mobiles this last month.

"I'm getting tired of fighting with people! There are a lot of good people out there with no place to go."

Difficulty in finding a new lot is the reason Janke and Sternhagen have not moved.

"There isn't an option. You can't just move, there isn't any place to go," Janke said.

Swenson's first attempt at evicting the Jankes in February failed because he accepted rental payment after serving the eviction notice, according to court documents.

He does not think he will fail the second time.

In his second complaint against the Jankes, filed last week in Gallatin County Justice Court, Swenson wrote, "Their yard is still a mess!! Sunday Paul (Janke) called me and I asked him when he was moving. He said, as usual, 'we're looking' and 'you cannot evict us because we joined a tenant association.'

"Who owns the land, me or him?" Swenson wrote. " I thought I did! I pay the taxes, yet I seem to have no rights!!"

Bozeman Daily
CHRONICLE
Friday, March 19, 1993 - Bozeman, Montana

# Residents complain of sewage, garbage and water

By JOE KOLMAN
Chronicle Staff Writer

Complaints of insufficient and unsatisfactory water, leaking sewage and overflowing garbage in Belgrade's Lexley Acres mobile home park have been registered in the last two years.

The most recent complaint was filed with the Gallatin County Health Department this week.

Tenant Alice Janke said sewage from a blocked line was pouring from a cleaning line and pooling in her yard. The area had been cleaned up by the time the health department inspected the site, but "contamination surrounding the area was evident," a report said.

The problem has been resolved, but Janke said it takes a complaint to the health department to get Lexley Acres owner Jerry Swenson to fix something.

"The problem is you have to twist his arm so hard," Janke said.

Janke and Swenson are involved in a lawsuit over Swenson's second attempt to evict Janke and her family. Swenson lost the first lawsuit because he accepted rent payment after issuing an eviction notice.

Problems with sewage, water and garbage were issues in Swenson's first case against the Jankes.

A complaint filed by Paul Janke last July with the county health department complained of the same sewage problem reported this week and said garbage collection was insufficient as well as water pressure to the mobile homes.

In court documents, the Jankes conceded the sewage problem was fixed promptly and Swenson said people other than tenants were dumping garbage in the court's cans.

But in his decision Judge Thomas Olson wrote that water pressure in the court dropped below the standard set by state administrative rules nine times during the summer of 1992.

In December of 1991 and January of 1992, the state Department of Health and Environmental Sciences said examinations of water samples from Lexley acres were unsatisfactory seven times.

In the summer of 1992, a county health inspection found sewage leaking from a connection to a trailer and cited the violation. In December, a follow-up inspection found the problem had still not been fixed.

The report said a hose that was to be used only for temporary hook-up was being used and "is cracked and rotted away allowing sewage to run to the ground under the trailer. This situation must be corrected immediately."

Early last January, the problem had still not been fixed, according to the health department. In a letter to Swenson, the health department said his 1993 trailer court license would not be granted if the problem was not fixed within 10 days.

Julie Lethert of the county health department said Thursday that Swenson complied by having the tenant use another bathroom in a different facility.

While not the ideal solution, Thomas Moore of the health department said, "It's better than putting sewage in the ground."

Lethert said sewage problems in Lexley Acres are caused by an old system, as are many others in the area.

"I don't think it's a case of even poor management as it is just the age of the system," Lethert said. "Jerry's a little slow sometimes to respond. It's always somebody else's problem. But he's not the only one."

Exhibit #2
3-24-93
HB-422

MISSOULIAN EDITORIAL: JULY 31 1991
[RE: NEW RULES AT TRAVOIS VILLAGE - MISSOULA, MONTANA]

MISSOULIAN EDITORIAL

# Tenants' rights ruled out

## Travois Village owner trying to limit park residents' lives

Most of us abide by unwritten community standards and conventions that would look silly if written down on paper. The new owner of Travois Village, a huge mobile home park in Missoula, has turned many of those common conventions into superfluous written rules, insulting the intelligence of the mobile park's residents in the process.

Worse, California-based Moore Enterprises has added injury to its insult. It has included in its otherwise banal list of rules several seemingly arbitrary prohibitions that seem more appropriate for an institution than for a residential development where people own their manufactured houses but rent the lots on which they're located. Some of the rules effectively deny the rights of home ownership to people living in the park — many of whom have a limited ability to pick up their mobile homes to move them to more reasonable environs. The rules are different than the protective covenants common in some subdivisions in that they are being imposed on the residents, rather than being something the residents agreed to when they moved to the village.

Among the new rules is a ban on vegetable gardens, limits on drying laundry and (we're not making this up) a requirement that children pick up their toys immediately after use. Moore Enterprises asserts the right to decide which relatives of a homeowner may live in the village, as well as requires homeowners to obtain permission for their visitors to park their cars for more than an hour. One new rule insists, "Children may not be left without an adult present to accept responsibility," a rule that would seem to bar parents from retaining a baby sitter in order to take in a movie. Commercial baby-sitting is clearly prohibited, meaning there can be no convenient day care anywhere in the 270-home neighborhood. Residents are barred from using "vile language," and anyone who has a complaint about the rules or anything else is forbidden from voicing concerns to Travois Village managers; instead a resident must submit the complaint in signed, written form.

No list of rules, no matter how long or detailed or draconian, will improve the quality of life or protect property values at Travois Village so much as encouraging a pride of ownership in its residents — pride that can only be undermined by treating the residents as slothful, irresponsible imbeciles. Moore Enterprises and Travois Village residents have a common interest in making the neighborhood a nice, well-kept place to live. By sitting down together to agree on the best way to serve their common interests, the owner and residents of the mobile park will probably accomplish far more than is possible with the current set of rules.

## HB 422: WHY WE NEED TO ENCOURAGE RESIDENT ASSOCIATIONS

## **SAMPLE FORM TO JOIN A MOBILE HOME COURT RESIDENT'S ASSOCIATION**

### MOBILE HOME COURT RESIDENT'S ASSOCIATION

On _____, a group of individuals who reside in _____ Montana, met to discuss their common concerns. This group discussed problems which they have all encountered as residents of their mobile home court and decided that the best way to tackle these problems was to form an association in order to work together in an organized manner.

The group formed the _____ Mobile Home Court Resident's Association and established the following purpose and principles:

1. The purpose of the _____ Mobile Home Court Resident's Association (hereafter referred to as "the Association") is to build a democratic organization of _____ mobile home court residents in order to protect and advance the collective interests of these residents.

2. The Association is affiliated with Montana People's Action, a grassroots, statewide citizen action organization working to empower mobile home court residents in Montana.

3. Membership in the Association is open to all residents of _____ mobile home courts who pay annual membership dues to Montana People's Action, and who are committed to working together to protect and advance the interests of _____ mobile home court residents, and the interests of other mobile home court residents in Montana.

The following are the charter members of the Association:

| | |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Ravalli Republic

35 CENTS HAMILTON, MONTANA MONDAY, JULY 13, 1992 103rd YEA



# Mobile home court owner taken to task

## Inconsistent rules bother most residents

By RUTH THORNING

Residents of a local mobile home court are fighting what they feel is unfair treatment by the court owner.

Fifteen residents of Sawtooth Mobile Village near Grantsdale have formed a Mobile Homeowners Association and affiliated themselves with Montana People's Action to protest certain actions by court owner Ron Curdy.

The group sent Curdy a registered letter recently, detailing their concerns and asking for a meeting with him to discuss what they consider to be "injustices." They asked that he reply by last Thursday. Court resident July Mix said Curdy told her he would like to join the Mobile Homeowners Association and that he would meet with them. No date has been set for that meeting.

"I have a limited income and I live in a mobile home," said Ken Holly, who has rented a spot in the court since February. "I also have a college degree and I resent being treated as a second class citizen without rights."

Holly refused to sign the lease agreement given to him by Curdy because a provision in the lease gives Curdy the right to come into Holly's home and inspect it at any time.

"This is my home, not a home I'm renting from him," Holly said. "He has no right to come into my home and I'm not going to allow it."

The main problem, according to Holly, has been a lack of consistency in the treatment of all the tenants in the court.

As tenants started comparing leases, they found six different leases among 15 tenants. Tenants who owned their own homes and only rented lot spaces and tenants who rented mobile homes from Curdy had similar leases but only a few had exactly the same lease.

The leases for rented homes allow the landlord access "with reasonable advance notice" to inspect the units. But, residents of the court complain that Curdy demands immediate access and has been seen entering rented homes with his pass key when the tenants are not home.

Curdy also has a duplicate key to everyone's mailbox and he refuses to give up the second key, Holly said. "We checked with the post office and he shouldn't be distributing the keys to tenants, the post office should be. A landlord has no right to access a tenant's mail box," Holly said.

One family in the court was given an eviction notice recently for having a dog. The leases say no dogs are allowed, "except in special instances permitted by the landlord." The tenants on either side of the evicted family have dogs.

Holly wanted to use wooden siding to skirt his mobile home. He was not allowed to under terms of the lease. But surrounding his home are both privately owned and rental units with wooden siding. "It makes no sense," Holly said. "No two people are treated in the same way. If the rules were the same for everyone, there wouldn't be a problem."

Holly said the watering rules are posted with one side of the court watering the lawns on even days and the other on odd days. However, the landlord controls the pump and sometimes the tenants go five and six days at a time without water for their lawns. One family was evicted for having a brown lawn, Holly said. "They were punished because he didn't provide water," Holly said.

Curdy often enters yards and resets sprinklers in other areas, Holly said. One tenant had an open window when Curdy reset a sprinkler and she came home to find an inch of water standing in her living room.

"Published in Stevensville, Where Montana Began"

Bitterroot STAR

Volume VIII, Number 20 Wednesday, December 2

# Montana People's Action supports Dockins

*by Charlene Pulliam*

Several members of Montana People's Acti turned out with signs and speeches on December 18 support Gail Dockins and other mobile home owne who have joined together to protest rules establish by James Stumpf, new owner of the Mission Mobi Home Park in Stevensville.

Residents of the 14-unit court say Stumpf has u reasonable demands and will not consid "grandfathering" in activities which do not fit in the rules. In comparing contracts, the mobile cou residents have found that different contracts were o fered to different people, with varying stipulations.

While all but two owners have signed the cor tracts, most say the method Stumpf used was forceful even frightening. Evelyn Schaertl, who has lived i the court for twenty years, says she was threatene with eviction if she did not sign the 50-rule contrac "He said my son couldn't stay more than two week and he would watch me everyday and I would see th whites of his eyes," Schaertl said. Another residen Cary Rohlfs, wrote "signed under protest" beside hi signature.

Ernie Fraser, a senior citizen and veter lated his war experiences to the situation. "I fou stop this type of thing," he said.

Allen Pickett, President of the recently f Mission Mobile Home Court Residents Associ said Stumpf is in violation of at least two state including the Landlord-Tenant Act. "No one k how to contact Stumpf... and we have no c manager. If there is an emergency we would h real problem," he said.

*Gail Dockins received an eviction notice on December 8 because a new mobile court owner u not allow her to keep the licensed family daycar has had for two years.*

HELENA INDEPENDENT RECORD

Monday, February 22, 1993

# Mobile homes occupy House

Two bills on the operation of mobile-home parks have the support of the Montana House.

The House on Saturday forwarded one bill to the Senate and gave the other preliminary approval.

Representatives passed House Bill 245, which spells out grounds for eviction from mobile home parks. The bill primarily benefits mobile-home owners who rent space in the parks.

Representatives also endorsed House Bill 422, which covers the maintenance responsibilities of park operators and authorizes formation of tenant associations.

The bill will receive one more House vote. If passed, it will go to the Senate.

Great Falls TRIBUNE

Exhibit 4 a
3-24-93
HB-422

- 13 -

Tuesday, November 17, 1992

# In brief

## Montana

### Group puts focus on mobile home issues

The newly formed Great Falls Mobile Home Court Resident's Association will meet in the old Radio Shack area at Westgate Mall at noon Thursday to draw attention to mobile home court issues.

Association members will speak about steps being taken to enhance safety, health and habitability of their courts. They will also talk about inadequate state enforcment of regulations, lack of maintenance and repairs, and harassment, intimidation and eviction of residents.

Janet Salmonson, Westview Park, Missoula, Montana

Dear Tenant,

I am pleased to introduce to you Mr. George Lewis who recently purchased Westview Mobile Home Park. Fran and Cata Nordgulen will continue the on site management and Groenig Developments, Inc. will continue as Property Managers. Together we will be implementing a number of new changes and policies, all of which are directed toward improving the park and the quality of life for all.

The store will be painted and discussion presently is underway for some expansion. The major and significant improvement is the repaving of areas which have deteriorated. This represents a very large capital outlay and an improvement I'm sure all of us are happy to see. You will experience some inconvenience, but the contractor has promised to progress toward completion as rapidly as possible. Also, plans are in the process for creating some much needed common and mini-storage areas adjacent to the park. This will provide a fenced, secured, and well lighted area for R.V.'s and extra vehicles. This will make a significant difference in the appearance of many of the lot areas. Other park improvements will become evident as Mr. Lewis proceeds.

Several policy changes should be noted and if you have any questions we encourage you to stop by and discuss them with Fran and Cata at the office. Your rent is due on the first and late after 5:00pm on the 5th. You will then be assessed a $20.00 late fee. Likewise, should the rent not be paid by the 10th, then another late fee will be charged and notice to evict will be implemented immediately. Mr. Lewis wants all to understand that your cooperation and attention to this policy will make everyone's job easier.

Also, you will receive a copy of rules and regulations which Mr. Lewis wants to govern the park. I would point out that yards must be kept in proper appearance. This will be strictly enforced and tenants who choose otherwise will be asked to move.

As previous owners we want to thank you for your choosing to live at Westview Mobile Home Park. We also are extremely pleased that Mr. Lewis has purchased the park, and we are positive and excited about working with him to improve the park in every way.

Again, please review the enclosed information and should you have questions, please give us a call.

Sincerely,

GROENIG DEVELOPMENTS, INC.

Jerry Groenig

Jerry Groenig
President

JG/sm

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3/24/93
BILL NO. HB 422

this notice was delivered later in Sept, 1992.

GROENIG
Developments Inc.

2107 River Road • Yakima, Washington 98902 • (509) 575-0825

September 29, 1992

1749 Sage

Dear Tenant,

Changes have occurred and other changes are planned to give Westview the T.L.C. needed.

The most significant change is the resurfacing of the streets. What a welcomed change to be able to drive without the problems associated with the break up of the old black top.

Soon you'll see a new fenced area adjacent to the store. This will provide parking and storage for R.V. equipment and other items used infrequently.

Montana Power is developing a new site street lighting plan. This will greatly help the entire park and hopefully provide better security.

After conducting a rent survey the new owner has decided to implement a 15.00 per month rent increase, effective November 1, 1992. Your new rent is 155.00. It may be of interest to you that all new tenants are currently paying $165.00. When you consider that water, sewer and garbage are provided as part of your rent, Westview Mobile Home Park is still below the current market rents.

There are other improvements planned and we know that all these changes are positive in making Westview a very desirous place to live.

Sincerely,

GROENIG DEVELOPMENTS, INC.

Jerry Groenig

Jerry Groenig
President

JG/sm

Exhibit #3
3-24-93
HB-422

My name is Janet Salmonson, I Live in Westview Trailer park in Missoula, MT. I am For H.B. 422 & also the amendmer especially pertaining to Section 70-24 303.

I Feel that this bill will protect our right To complain of unfair & even unsafe conditions without risk of retaliatory action From the Land owner and/or Lot manager. I have Submitted proof that there was retaliatory action on behalf of the Landowner after the Tenants have complained of bad road conditio The Lot owner did not Fix the roads until after he Sold to a new owner who then had the roads fixed, but raised the rent $15 or more per month, effective nov 1, 1992. This year they are NOTIFying us that they are doing away with a much needed servic garbage removal.

we also need To have the option of Joining a Tenants union or mobile home park residents association, etc without risk of retribution From Land Lord, because we need the power to protest unfair conditions Like Frequent rent increases that we Feel is unfair & discontinuance of much needed Service that should be supplied. we need To be protected before this continues. Section 70-24-431 of HB 422 also pertains To This situation

Amendments To HB 422
Proposed By The Income Property Managers Association
Senate Business and Industry Committee
March 24, 1993

Amendment 1: page 4, line 12: following "rules--"
strike "arbitration"

Amendment 2: page 6, strike lines 15 through 17 entirely.

Amendment 3: page 11, line 4: following "park"
strike "shall",
insert "may"

Amendment 4: page 11, line 6: insert the following:

(3) all rules must be written and must be given to to each mobile home park resident who resides in a mobile home park and to all new residents of a mobile home park upon arrival.

Amendment 5: page 11, line 6: strike "(3)" insert "(4)"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3/24/93
BILL NO. HB 422

DATE March 24, 1993

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 94, HB 422, HB 509, HB 575

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Klaus Sitte | MLSA | HB422 | ✓ | |
| [illegible] | | H.B422 | ✓ | |
| Perkie Jones | MLSA | HB422 | ✓ | |
| Lela DeCock | Belgrade MT | HB422 | ✓ | |
| Christine Cox | Belgrade MT | HB422 | ✓ | |
| Ken Pratt | Missoula | HB422 | ✓ | |
| Ron Wagner | Missoula MT | HB422 | ✓ | |
| David Stack | Missoula MT | HB422 | ✓ | |
| AMY KELLEY | COMMON CAUSE | HB 94 | ✓ | |
| Cindy Moree | Msla | HB422 | ✓ | |
| Mike Moree | Msla | HB422 | ✓ | |
| Gabe Moree | Msla | HB422 | ✓ | |
| Cathie Huguenin | MSLA | HB422 | ✓ | |
| Lois McMeekin | self | HB509 | | ✓ |
| Norma Morland | MSLA | HB422 | ✓ | |
| Janet Salmonson | Westview Trailer Park Missoula, MT | HB422 | ✓ | |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

DATE 3/24/93

SENATE COMMITTEE ON B and I

BILLS BEING HEARD TODAY: HB 94, 422, 509, 525

| Name | Representing | Bill No. | Check One: Support | Check One: Oppose |
|---|---|---|---|---|
| Greg Van Hassen | IPMA/MLA | 422 | | ✓ |
| Bill Olson | AARP | 422 | ✓ | |
| Robt Dunlop | myself | 422 | ✓ | |
| John Wyman | Great Falls Resident | 422 | ✓ | |
| Lonnie C. Clark | MT Assn Realtors | 422 | | ✓ |
| Lynn Richard | Missoula | 422 | ✓ | |
| Mary E. Chessmore | Missoula | 422 | ✓ | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

**Motion/Vote:**

Senator Mesaros moved HB 635 BE CONCURRED IN.

**Discussion:**

Senator Klampe asked Senator Mesaros what an "obvious thing" would be on a lien which would make it fraudulent. Senator Mesaros replied mistaked such as no signature, partially filled out liens and other circumstances.

Senator Klampe stated the "obvious things" should be listed in HB 635. He stated HB 635 would allow filing officers to reject a lien at their discretion.

Senator Lynch stated the people should have faith in their elected officials.

**Vote:**

The motion CARRIED UNANIMOUSLY.

## EXECUTIVE ACTION ON HB 422

**Discussion:**

Senator Lynch announced there were amendments to HB 422. The amendments were supplied to the Committee and reviewed by Mr. Campbell (Exhibit #2).

Referring to Section 3, Senator Lynch asked if the mobile home park owner or landlord has to allow a meeting of the tenants.

Greg VanHorssen supplied the Committee with proposed amendments by the Income Property Managers Association (IPMA) (Exhibit #3). He stated there had been no concession between the IPMA and the mobile home tenants.

Senator Lynch asked Mr. Campbell if any of the amendments were current law. Mr. Campbell stated amendment #12 (Exhibit #2) was already applicable to the Landlord/Tenant Act (LTA) and was in the codes as a law relating to coercion and harassment. He stated the section is already covered in existing law. He stated Mr. Petesch felt the law addressed a specific relationship between the landlord and the tenant and would not cover the associations. Mr. Campbell stated he felt that if the landlord was harassing the association, they were harassing the tenants. Referring to the section dealing with snow removal, Mr. Campbell stated there is a general requirement that the landlord is responsible to keep a place clean and safe. He stated the general requirement was a "long reach" from the snow removal amendment. He stated the Montana courts have never interpreted

the phrase in the codes. Mr. Campbell stated there was a 1990 decision in the Alaska courts that the phrase included snow removal. Mr. Campbell stated snow removal should be specified if the Committee wanted to ensure it.

Senator Lynch stated he did not want the immediate effective date. He asked the Committee to address whether a landlord or a person who resides in the court should be able to attend association meetings. Senator Lynch stated the Committee should also decide on the snow removal amendment and if there should be a requirement for a list of rules, even if the landlord does not have rules.

Senator Mesaros asked where HB 422 would fit into the LTA. Mr. Campbell stated HB 422 addressed "dwellings" as were subject to the LTA.

Senator Mesaros asked what requirements there were in the LTA for written rules. Mr. Campbell stated there are no requirements in the LTA for written rules.

Senator Lynch stated if there were rules, they should be required to be in writing. He stated if there were not any rules, they should not be required to supply them to the tenants.

Senator Harding stated her constituents complained that their landlords kept changing the rules and giving the new rules to the tenants.

Senator Bruski-Maus stated the manager could only be included in the associations if they are renting the space on the court. She stated tenants, by definition, were people who rented living space.

Senator Christiaens stated he felt if the landlords live in the park, then they are residents of the park and should be allowed to go to association meetings.

Senator Lynch stated if there was an administrator who taught one class a day and felt he should be able to attend all of the union meetings, he would prefer the administrator not attend. He stated if the landlord is present, the tenants would not be able to talk openly and freely.

Mr. Campbell stated the amendment would make it so the landlord or their employee would not be allowed unless they are invited by the association members.

Senator Klampe stated the barring of the landlords from meetings was legal and constitutional.

Senator Christiaens stated if the phrase "resident of a court" is in HB 422, and the landlord lives on the court, then they may attend the association meetings.

Senator Lynch stated the Committee would disconnect the amendments and vote on them in separate sets.

Senator Lynch stated he had no problems with the first amendment which would require the adoption of "reasonable" rules for the parks.

**Motion**:

Senator Kennedy moved HB 422 BE AMENDED with amendments numbered one through eight (Exhibit #2).

**Discussion**:

Senator Christiaens questioned how often landlords are going to be allowed to change the written rules. He stated he felt if the landlord had adopted written rules, the rules should remain constant for a period of time.

Senator Rea stated "reasonable" should not need to be defined and should depend on rulings by a judge.

Referring to Section 4, Senator Gage stated the rules may only cover what is listed.

**Vote**:

The motion carried UNANIMOUSLY.

**Discussion**:

Senator Lynch stated he felt the Committee should address the issue of a court who doesn't want rules. Senator Lynch stated he felt the rules should only be written and presented to the tenants if there are rules in existence.

Senator Rea asked Mr. Campbell how an oral rule would be enforced. Mr. Campbell stated an oral rule was an "oral agreement" and it would need to be proven that the agreement exists. He stated if the agreement was proven to exist, then it could be defended.

Senator Christiaens asked if "to each resident" pertained to individuals who rented the space. He stated the law could be construed to mean each person living in the trailer house.

Senator Lynch stated the language meant each structure.

Senator Kennedy suggested the word "resident" be changed to "residence".

Mary McCue, Mobile Home Park Owners, stated "tenant" would provide clarification and would also be consistent with the rest of HB 422.

Mr. Campbell stated "tenant" is defined as "a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others." Mr. Campbell clarified the amendment proposed by Senator Lynch was on page 6, sub-paragraph B and would be stated "if there are rules, all rules must be written and given to the mobile home park tenants who resides in a mobile home park, and to all new tenants of a mobile home park, upon arrival".

Mary McCue stated the amendments given by Mr. VanHorssen, Income Property Managers Association, addressed what the Committee had been discussing (Exhibit #3).

Senator Klampe stated he agreed with Senator Rea that all rules should be written for the sake of protection from other tenants.

Mr. Campbell stated the amendments (Exhibit #3) would delete subsection B from page 6 and move it to page 11, line 6 and "all rules must be written and given to each tenant" would be inserted. Mr. Campbell stated there would also be an amendment to page 11, line 4, which would substitute "may" for "shall".

**Motion/Vote**:

Senator Kennedy moved HB 422 BE AMENDED (Exhibit #3). The motion CARRIED UNANIMOUSLY.

**Discussion**:

Senator Christiaens asked what would be the definition of a "mobile park". Mr. VanHorssen stated the law defined it as two or more mobile home units.

Senator Lynch addressed amendment #9 which would reinsert "harassment prohibited" which had been removed by the House.

Mr. Campbell stated harassment was already prohibited under another section of the law.

Mr. Campbell read from the code which stated:

> "unless displaced by the provisions of this chapter, the principals of law and equity, including the law relating to the passage of contracts, mutuality of obligations, principal and aid to..., estoppel, fraud, misrepresentation, duress, coercion, estate, bankruptcy or other validating or invalidating causes implement its provisions in the Landlord/Tenant Act".

Senator Lynch stated since there was no motion to include amendment #9, it would be deleted from the amendments.

**Motion/Vote**:

Senator Klampe moved HB 322 BE AMENDED (Amendments #10 and #11, Exhibit #2). The motion CARRIED UNANIMOUSLY.

**Discussion**:

Senator Lynch stated there was no way the mobile home meetings could be prohibited. He stated there should not be a need for a law stating that people can hold a meeting. He stated amendment #12 (Exhibit #2) should be struck.

Senator Klampe stated the problem exists because the meetings are being prohibited. He stated the addition of amendment #12 (Exhibit #2) would be for clarification.

**Motion**:

Senator Klampe moved HB 422 BE AMENDED to section 3, part 3 of amendment #12 (Exhibit #2).

**Discussion**:

Senator Lynch stated if the section is put into law, it would be saying that if people were to have a meeting regarding the court, and they wanted to hold the meeting off premises, they would have to have permission from the owner or landlord of the court.

Senator Klampe stated perhaps the Committee should change the word "permit" to "allow".

Senator Lynch stated the section should refer specifically to the trailer court.

Senator Christiaens stated the section is not necessary.

**Motion/Vote**:

Senator Kennedy made a substitute motion HB 422 BE AMENDED to say "may not prohibit" under amendment #12. The motion CARRIED UNANIMOUSLY.

**Discussion**:

Senator Lynch stated the subject of snow removal has to be approached.

Senator Christiaens stated the areas for snow removal need to be specified.

Senator Rea stated there was no remedy for non-removal of the snow.

Senator Klampe stated the amendment could be reworded to clarify it.

Mr. Campbell stated the landlord's duties are to keep all common areas of the premises in a clean and safe condition.

Senator Lynch asked if there was anyway "snow removal" could be included in the section regarding cleaning of common areas.

**Motion/Vote**:

Senator Christiaens moved HB 422 BE AMENDED to include snow removal in the Landlord/Tenant Laws (Exhibit #2). The motion CARRIED UNANIMOUSLY.

**Motion/Vote**:

Senator Gage moved HB 422 BE AMENDED to include amendment #13 (Exhibit #2). The motion CARRIED UNANIMOUSLY.

**Motion/Vote**:

Senator Gage moved HB 422 BE AMENDED by changing the word "resident" to "tenant". The motion CARRIED UNANIMOUSLY.

**Motion/Vote**:

Senator Klampe move HB 422 BE CONCURRED IN AS AMENDED. The motion CARRIED by Roll Call Vote.

## ADJOURNMENT

**Adjournment:** 11:30 a.m.

SENATOR J.D. LYNCH, Chair

KRISTIE WOLTER, Secretary

JDL/klw

# SENATE STANDING COMMITTEE REPORT


March 26, 1993

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration House Bill No. 422 (third reading copy -- blue), respectfully report that House Bill No. 422 be amended as follows and as so amended be concurred in.

Signed: J.D. Lynch
Senator John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 11.
Strike: "RESIDENT"
Insert: "TENANT"

2. Page 4, line 12.
Strike: "-- arbitration"
Strike: "operator"
Insert: "landlord"

3. Page 4, line 15.
Strike: "and the following:"
Insert: "."

4. Page 4, line 18.
Strike: "(A)"
Following: "rule"
Insert: "may not be unreasonable, and a rule"

5. Page 4, line 21.
Following: "~~,~~"
Insert: "."

6. Page 6, line 14.
Strike: "."

7. Page 6, lines 15 through 17.
Strike: subsection (b) in its entirety

8. Page 6, line 23.
Following: "~~(1)~~"
Insert: "(1)"

9. Page 7, line 3.
Strike: "AND"
Insert: "but"

M- Amd. Coord.
DW Sec. of Senate

Bruski-Maus
Senator Carrying Bill

681906SC.Sma

10. Page 7, line 4.
Strike: "operator"
Insert: "landlord"
Strike: "operator's"
Insert: "landlord's"

11. Page 7, line 5.
Following: "~~not~~"
Insert: "not be members and may not"
Following: "meetings"
Insert: "unless specifically invited by the tenant association. (2) The mobile home park landlord may not prohibit meetings by a tenant association or tenants relating to mobile home living"

12. Page 10, following line 5.
Insert: "NEW SECTION. Section 4. Mobile home park landlord's road maintenance obligations. In addition to the obligations imposed by 70-24-303, the mobile home park landlord shall maintain roads within the mobile home park in a safe condition, including arranging for snow removal."
Renumber: subsequent sections

13. Page 11, line 4.
Strike: "shall"
Insert: "may"

14. Page 11, following line 5.
Insert: "(3) All rules must be written and must be given to each mobile home park tenant who resides in a mobile home park and to all new tenants of a mobile home park."
Renumber: subsequent subsection

15. Page 11, line 24.
Strike: "residents"
Insert: "tenant"

16. Page 13, line 5.
Following: line 4
Insert: "NEW SECTION. Section 7. Codification instruction. [Sections 2 through 4] are intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [sections 2 through 4]."

-END-

# ROLL CALL VOTE

SENATE COMMITTEE Business & Industry BILL NO. HB 422

DATE 3/26/93 TIME 10:00 (A.M.) P.M.

| NAME | YES | NO |
|---|---|---|
| Senator Gage | ✓ | |
| Senator Hager | | |
| Senator Harding | ✓ | |
| Senator Mesaros | ✓ | |
| Senator Brenden | | ✓ |
| Senator Wilson | ✓ | |
| Senator Rea | | ✓ |
| Senator Klampe | ✓ | |
| Senator Koehnke | ✓ | |
| Senator Bruski-Maus | ✓ | |
| Senator Kennedy | | ✓ |
| Senator Christiaens | | ✓ |
| Senator Lynch | ✓ | |

Krista Wolt
SECRETARY

CHAIR

MOTION: Be recommended as amended

Amendments to House Bill No. 422
Third Reading Copy

Requested by Representative Larson
For the Committee on Business and Industry

Prepared by Greg Petesch
March 23, 1993

1. Page 4, line 12.
Strike: "-- arbitration"
Strike: "operator"
Insert: "landlord"

2. Page 4.
Following: line 17
Insert: "(a) a rule may not be unreasonable;"
Renumber: subsequent subsections

3. Page 4, line 18.
Following: "a"
Strike: "A"
Insert: "a"

4. Page 4, line 21.
Following: ";"
Insert: "; and"

5. Page 6, line 14.
Strike: "."

6. Page 6, line 15.
Strike: "WRITTEN"
Insert: "in writing"

7. Page 6, line 16.
Strike: "PARK RESIDENT"
Insert: "owner or tenant of a mobile home"
Strike: "A"
Insert: "the"

8. Page 6, line 17.
Strike: "ALL NEW RESIDENTS OF A MOBILE HOME PARK"
Insert: "each resident"

9. Page 6, line 23.
Following: "meetings"
Insert: "-- harassment prohibited"
Following: "."
Insert: "(1)"

10. Page 7, line 3.
Strike: "AND"

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Insert: "but"

11. Page 7, line 5.
Following: "~~not~~"
Insert: "not be members and may not"
Following: "meetings"
Insert: "unless specifically invited by the resident association"

12. Page 10, line 6.
Following: line 5
Insert: "(2) A mobile home park landlord may not harass or threaten members of any resident association or engage in unfair or deceptive conduct to inhibit or interfere with the creation or operation of an association.

(3) The mobile home park landlord shall permit meetings by a resident association or residents relating to mobile home living.

NEW SECTION. **Section 4. Mobile home park operator's road maintenance obligations.** In addition to the obligations imposed by 70-24-303, the mobile home park operator shall maintain roads within the mobile home park in a safe condition, including arranging for snow removal."
Renumber: subsequent sections

13. Page 13, line 5.
Following: line 4
Insert: "NEW SECTION. **Section 7. {standard} Codification instruction.** [Sections 2 through 4] are intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [sections 2 through 4]."

Amendments To HB 422
Proposed By The Income Property Managers Association
Senate Business and Industry Committee
March 24, 1993

Amendment 1: page 4, line 12: following "rules--"
strike "arbitration"

Amendment 2: page 6, strike lines 15 through 17 entirely.

Amendment 3: page 11, line 4: following "park"
strike "shall",
insert "may"

Amendment 4: page 11, line 6: insert the following:

(3) all rules must be written and must be given to to each mobile home park resident who resides in a mobile home park and to all new residents of a mobile home park upon arrival.

Amendment 5: page 11, line 6: strike "(3)" insert "(4)"

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